

Application Serial No. 10/802,555
Response dated March 16, 2007
Reply to Office Action mailed December 18, 2006

AMENDMENTS TO THE DRAWINGS

The attached sheets of drawings include changes to FIGS. 3 and 6.
Replacement sheets of drawings have been provided removing reference numeral 42.
Annotated sheets showing the changes have also been provided.

Attachment: Two Replacement Sheets
Two Annotated Sheets

REMARKS

Claims 5 and 7-18 are currently pending in the present application. Claims 1-4 and 6 have been cancelled herein and claim 19 was previously cancelled. Claims 5 and 18 have been amended.

Support for the amendments may be found throughout the specification and in the figures. No new matter has been added in this Amendment.

Substance of the Interview

Applicants kindly thank the Examiner for the opportunity to discuss the issues in this case.

A telephonic interview was held on March 13, 2007 with Examiner Koharski and Heidi Dare. No exhibit was shown and no demonstration was conducted, but a set of proposed amended claims were discussed. Applicants agreed to file a Response to the Office Action with amended claims 5 and 18.

Objection to the Specification

The specification has been objected to because reference numerals 26 and 32 are not referenced in the specification.

Applicants have amended the specification to include reference to the passageways 26 and 32 in the magnets 22 and 28 shown in FIGS. 3 and 6. Applicants have also amended the specification to include reference to the bullet-shaped end of one magnet and the bullet-shaped recess of the other magnet shown in FIGS. 3 and 6 as reference numerals 24 and 30. Reference numeral 42 has been removed. Support for these amendments may be found in the originally filed drawings and the claims. No new matter has been added.

Applicants have provided herewith replacement and annotated drawing sheets showing the changes to FIGS. 3 and 6.

Applicants respectfully request that the objection to the specification be withdrawn.

Claim Rejections

The Examiner has maintained the rejections of the previous Office Action based on Kane et al. (U.S. 6,985,776). Applicants respectfully disagree with the claim rejections. However, in order to expedite prosecution, Applicants have cancelled claims 1-4 and have amended independent claims 5 and 18 to recite that the separate

passageways of the upper and lower magnets (claim 5) and of the esophageal and gastric catheters (claim 18) are configured to create a substantially continuous passageway when the upper and lower esophageal sacs are joined. Kane et al. alone or in combination with the art of record fails to teach or suggest separate passageways of the medical system configured for the creation of a substantially continuous passageway when the upper and lower esophageal sacs are joined.

The art of record has been discussed in detail in the response to the previous Office Action that was entered with the RCE on November 15, 2006.

Applicants respectfully assert that claimed invention in independent claim 5 and the claims dependent thereon, each requiring an upper magnet an end portion having one of a protruding surface or a recessed surface and further having an upper magnet passageway and a lower magnet having the other of a protruding surface or a recessed surface and further having a lower magnet passageway wherein the upper magnet and the lower magnet are configured to approximate the upper esophageal sac and the lower esophageal sac so that the upper and lower magnet passageways operably connect to form a substantially continuous passageway between the upper magnet and the lower magnet, is patentable. Similarly, claim 18, requiring that the upper and lower magnets are configured to mate so that the esophageal catheter passageway is operably connectable to the gastric catheter passageway to create a substantially continuous passageway therethrough when the upper and lower esophageal sacs are joined is also patentable.

Therefore, Applicants respectfully request the rejection of claims 5 and 7-18 under 35 U.S.C. §102(e) and 35 U.S.C. §103 be withdrawn.

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SUMMARY

It is respectfully asserted that the claims properly define the invention and that the invention is both novel and non-obvious. Allowance of the present claims is earnestly solicited.

Applicants respectfully request that the Examiner call the undersigned with any questions regarding this response to expedite the prosecution of the application.

Respectfully submitted,

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Heidi A. Dare
Registration No. 50,775
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610
(312)321-4200

FIG. 1

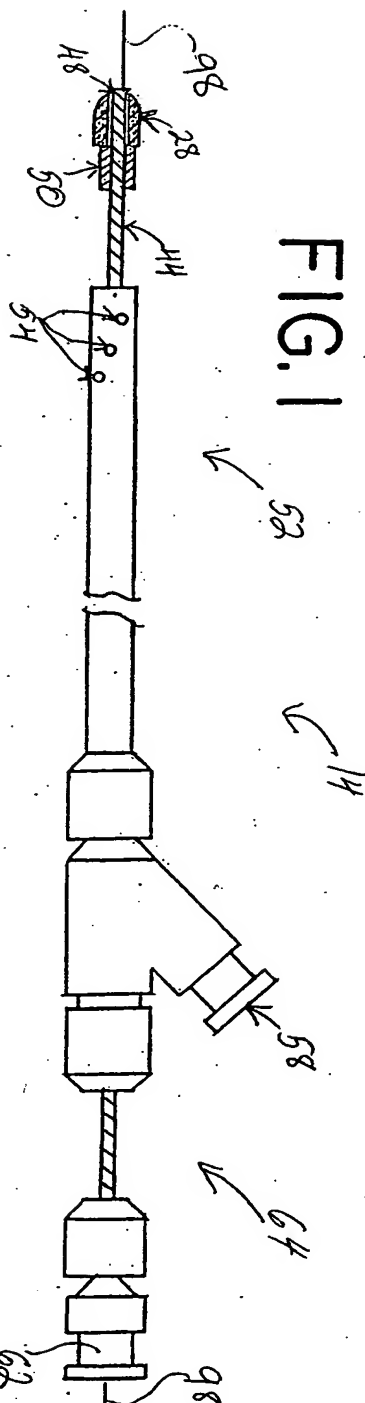


FIG. 3

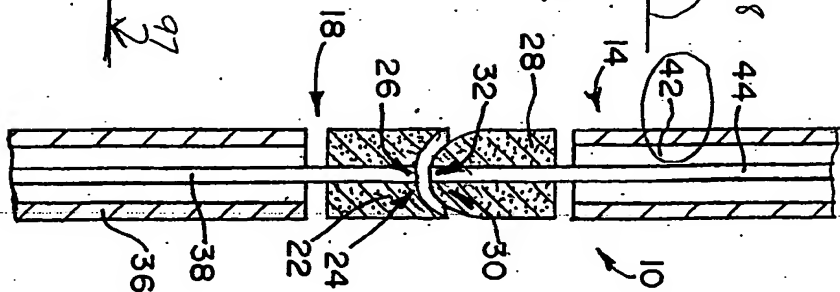


FIG. 2

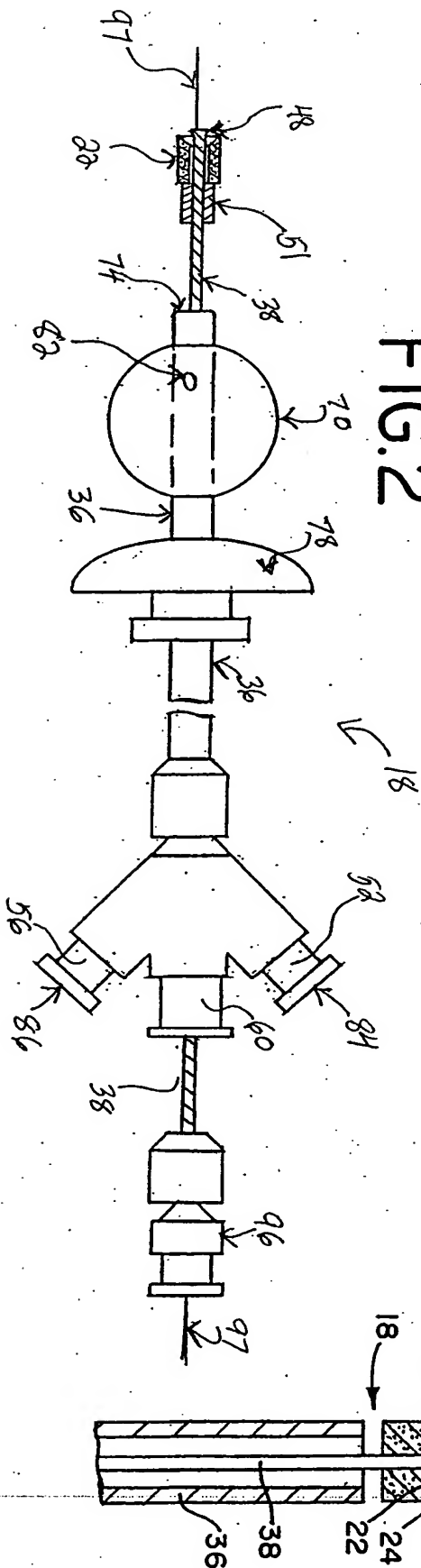


FIG. 6

